

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
STATEVILLE DIVISION  
5:21-cv-00028-MR

BILLY JOE FRANKLIN, III, )  
Plaintiff, )  
vs. ) ORDER  
LINCOLN COUNTY SHERIFF, )  
et al., )  
Defendants. )

**THIS MATTER** is before the Court sua sponte on review of the docket in this matter.

Plaintiff filed this lawsuit pursuant to 42 U.S.C. § 1983 on February 12, 2021, against Defendants Lincoln County Sheriff and Doe Defendants #2, #3, and #4. [Doc. 1]. On April 20, 2021, Plaintiff's Fourteenth Amendment claims survived initial review in accordance with the Court's Order. [Doc. 9]. The Court ordered Plaintiff to return completed summonses to the Clerk identifying the Defendants for service of process by the U.S. Marshal. [Id. at 9]. As of July 28, 2021, Plaintiff had not provided such summonses. The Court then ordered Plaintiff to show good cause why this action should not be dismissed for Plaintiff's failure to timely serve Defendants pursuant to

Fed. R. Civ. P. 4(m). [Doc. 14]. The Court also ordered Plaintiff to notify the Court of his new address within 14 days after mail from the Court was returned as undeliverable, [Docs. 12, 13], and advised Plaintiff that the Court would dismiss this action without prejudice for his failure to do so. [Doc. 14].

In response, Plaintiff moved for an extension of time to serve Defendants and for appointment of counsel. [Doc. 15]. The Court allowed Plaintiff 30 days from August 26, 2021 to provide completed summonses to the Court as ordered in Docket No. 9 and denied Plaintiff's motion for counsel. [Doc. 16]. More than 30 days have passed, and Plaintiff has not provided the required summonses. The Court will, therefore, dismiss this action without prejudice for failure to timely serve Defendants under Rule 4(m).

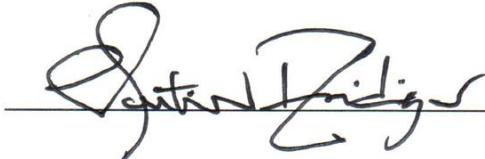
**ORDER**

**IT IS, THEREFORE, ORDERED** that this action is **DISMISSED WITHOUT PREJUDICE.**

The Clerk is instructed to terminate these proceedings.

**IT IS SO ORDERED.**

Signed: October 26, 2021

  
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Martin Reidinger  
Chief United States District Judge  
